

Exhibit 5

Public Comments

To The Island County Planning Commission and Island County Planning Director,

The Island County Farm Bureau would like to offer the following comments on the proposed update to the Island County Critical Areas Ordinance pertaining to the Fish and Wildlife Habitat Conservation Areas:

While The Farm Bureau recognizes the language in Article 4 Exempt Activities Section 17.02B.400 A. #1. and 2.[page 15 of the draft] intends to give existing and ongoing agricultural operations the ability to continue those operations, it is not clear in the current draft language what the impacts of processing an "exempt" activity as a Type 1 Permit will be. These concerns include the financial impacts to the agricultural landowner, the time and paperwork involved in obtaining a permit to do routine "exempt" maintenance work and adding more regulations to the very operations that, along with Forestry operations, have done more to protect and promote open space lands than any other type of land use in Island County. These open space agricultural lands provide excellent habitat values while continuing to have agricultural land use practices occur on them.

Agricultural operators need the flexibility to time and conduct their land use activities and necessary maintenance practices when the weather, ground conditions and the ever changing economics of agriculture are optimal for the activity to be undertaken. What may work one month in a certain year may not work the next year at the same time due to the factors mentioned above. For example, to expect an operator to be able to go through a permit process for routine maintenance work each year is not workable nor reasonable.

Also in Article 4 A. the language following A. appears to require additional criteria and code requirements found in Article 4 subsections B. and C. to meet the exempt status found in subsection A.. Perhaps adding language in Article 4 A. referencing BMP's when conducting agricultural practices would make it clear what these requirements are versus the language found in subsections B. and C..

The restoration requirements under Article 4 subsection B. #2[page 17] would make routine drainage ditch maintenance unworkable. As written, it appears the proposed ordinance is requiring native vegetation to be replanted and possible monitoring requirements after an "exempt" activity such as ditch cleaning and maintenance has taken place. Maintenance of existing improvements such as a drainage ditch should be specifically "exempted" from restoration or other ordinance requirements if done as part of an existing and ongoing agricultural practice.

The mandate for Island County to enact or update County Code dealing with Fish and Wildlife Habitat Conservation Areas comes from the State Growth Management Act[GMA]. Included in the GMA are provisions to protect agricultural lands and promote agriculture in the State. Also found under GMA planning are provisions to balance the goals of the GMA. Agricultural operators and agricultural lands in Island County are already under extreme pressure for many reasons. Placing additional regulations and unclear code requirements on agricultural operations will not be balancing those GMA goals, as it will lead to less land in agricultural production in Island County.

Please be very careful and consider the impacts this proposed ordinance will have on agricultural lands and the agricultural operators in Island County while you are discussing and hopefully making the necessary changes to the draft before you. In most cases when an agricultural operation ceases to exist in Island County for whatever the reason, the land use that replaces it is not one that promotes and helps "protect the rural character" that many Island County residents want to see remain.

Thank you,
Island County Farm Bureau Board of Directors

Dave,

Thanks for the clarification today on what comments to make during and workshop. I will keep that in mind in the future.

Overall it looks like a lot of thought and good work went into the document. I just have a few comments.

General concerns

1. If these rules raise costs to high, then the probability of only the wealthy purchasing rural property increases, which impedes young families from property ownership. This could add to the gentrification of the populace and limit economic diversity.
2. By planting native plants on their property and creating habitat, could property owners limit their future property uses? If a property owner plants an endangered species have they greatly limited future property uses? An unintended consequence could be the discouragement of property owners from maintaining or adding habitat. A \$500 annual tax incentive spread over 20 years equals \$10,000 while property values have a tendency to rise much faster.

17.02B.70.J – An example or clear definition of a “simple mitigation project” would help landowners and contractors know at what point costs will increase beyond something ‘simple’.

17.02B.210.B – “5 year idle” rule. I’m concerned that a situation could arise where future agriculture is negatively impacted. For example, if an agricultural property should remain fallow due to the bequeathing of the property to children who want to farm in the future, they could find the costs of farming prohibitive due to compliance required by the regulation. That could encourage use of the land for a residence instead of farming, which does not provide ongoing employment.

17.02B.210R – If a farmer replaces the roof and siding on their barn have they violated the 50% rule? Will this provision restrict building maintenance?

17.02B.201X – What level is required to be qualified? A bachelors, masters or PhD degree? A state certification or license? Knowing this will help reduce costs for the landowner or contractors by hiring the correct person.

17.02B.530B – Postal notification of rule changes should go to all property owners before the rules get applied. Simple newspaper notification is no longer enough since people get most of their information from the internet. Limitations on future land use could negatively impact property values and cottage business related uses.

17.02B.530F – Will the county default to everyone submitting a habitat management plan because it’s expedient and limits potential county liability? Also, if a qualified individual is hired, why should the applicant pay again just because the county doesn’t concur with the results? If that potential exists, they going with the county’s selected expert would decrease costs and expedite the process.

17.02B.550F – I recommend adding public safety. For example, a snag near a public boat ramp or other recreational area could fall on a visitor.

17.02B.600B – When a species is identified, notification by mail should occur to all potentially impacted landowners before being added to the list. Placing limitations on future land use could negatively impact property value.

Sincerely,
Ron Nelson
Executive Director

Island County EDC
180 NW Coveland St
PO Box 279
Coupeville WA 98239
Phone: (360) 678-6889

Dear Brad;

I write to follow up on our discussions at the April 21st workshop regarding proposed amendments to the Island County's regulations governing Fish and Wildlife Conservation Areas. Please excuse my delay in providing this feedback: I was actually under the impression that you would be providing some follow-up to our discussion, but, because I left the workshop before it ended, I missed the opportunity to confirm that point with you.

In any event, an issue of real concern to many long-time farmers (at least, to some on the south end of Whidbey) is their ability to continue to maintain long-standing drainage ditches without undue hindrance or expense. Under Island County's "new" Critical Areas Ordinance, Ch. 17.02A ICC, existing agricultural activities (as of the time the new ordinance was adopted) that are on lands that contain or are affected by critical areas or buffers are governed by Island County's "old" Critical Areas Ordinance, Ch. 17.02 ICC, unless owners choose to comply with the new ordinance. 17.02A.050.F. Under 17.02.040.E.A., existing and on-going agricultural activities are exempt when undertaken pursuant to best management practices to minimize impacts to critical areas. In the course of my work of behalf of a farm operation on the south end of Whidbey Island with many decades of history maintaining an established drainage ditch system, I recently confirmed that Island County agrees that work to maintain such a system is exempt from critical area regulations, despite Island County's belief that one or more of the ditches in the system contain a channelized stream, naturally occurring before the ditches were established.

I was therefore alarmed to note that some of the proposed new regulations appear to be intended to change that result. Under the first exemption in the table that appears in 17.02B.400, existing and on-going agricultural activities includes normal maintenance only of "non-regulated watercourses", defined, under 17.02B.210.S, to exclude ditches that are constructed from natural or modified stream channels. I furthermore read the text of the "Audit and Policy//Regulatory Framework" discussion that accompanied my reading of the new regulations (at page 50, at the top), to imply that Island County wanted a chance to determine whether to classify a given watercourse as natural, natural modified, or artificial before maintenance work commenced precisely because Island County would require compliance with its critical area regulations for "natural modified" watercourses.

In my judgment, such a result creates great potential for controversy over whether any given drainage ditch does or does not contain a channelized naturally occurring stream: a particularly difficult job when the ditches in question have been in place, and have been maintained, for many decades. In my judgment, such controversies are not desirable, appropriate, or productive, when the farmer may already be required, under state and federal law, to submit a JARPA before conducting drainage ditch maintenance work. In my judgment, such a result could have adverse and inappropriate impact on existing farm operations: operations that are already struggling to remain in existence in what many area farmers perceive to be an increasingly difficult regulatory environment.

As I understood your comments at the April 21st workshop, the changes that I fear from these regulations were not intended by those who drafted them. This matter is of sufficient concern to at least some affected farmers, however, that I would very much like to find out how to confirm these points. Please therefore let me know your thoughts on these subjects at your early convenience.

Very truly yours,
Carolyn Cliff

